

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

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|----------------------------------|---|------------------------|
| CARRIE GREEN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. CIV-09-1338-D |
| |) | |
| MICHAEL J. ASTRUE, Commissioner, |) | |
| Social Security Administration, |) | |
| |) | |
| Defendant. |) | |

ORDER

This matter is before the Court for review of the Report and Recommendation [Doc. No. 17] issued by United States Magistrate Judge Valerie K. Couch pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). In this action for judicial review under the Social Security Act, 42 U.S.C. § 405(g), Judge Couch recommends the reversal and remand of the Commissioner's decision denying Plaintiff's application for supplemental security income benefits. No timely objection has been filed.

Within the time period for objection, however, Plaintiff has filed a "Response" [Doc. No. 18]. Plaintiff states that she does not object to the recommended reversal and remand, but she contends that the judgment should reflect the affirmance of the Commissioner's decision with respect to findings of the administrative law judge (ALJ) that were not at issue in this appeal. Relying on *Poppa v. Astrue*, 569 F.3d 1167, 1170 (10th Cir. 2009), Plaintiff argues that when a district court reverses and remands an ALJ's decision for further proceedings, the law of the case doctrine will only apply to findings of the ALJ on which this Court makes an express determination.

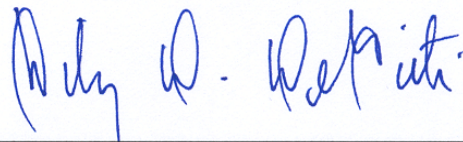
The Court rejects Plaintiff's suggestion that a final order or judgment in this case should reflect a judicial decision that was neither requested nor made. Judge Couch properly considered in her Report only the issues that were timely raised in this administrative appeal and addressed in

the parties' briefs, which involve only findings of the ALJ regarding Plaintiff's past relevant work and transferrable skills. Because no judicial decision was requested on other issues or findings, none will be made by the Court in this case.

The court of appeals "has adopted a firm waiver rule under which a party who fails to make a timely objection to the magistrate judge's findings and recommendations waives appellate review of both factual and legal questions." *Morales-Fernandez v. I.N.S.*, 418 F.3d 1116, 1119, 1122 (10th Cir. 2005); see *United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996); *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). Absent a timely objection in this case to any finding or recommendation of Judge Couch, the Court finds that the parties have waived further review of all issues.

IT IS THEREFORE ORDERED that Judge Couch's Report and Recommendation [Doc. No. 17] is ADOPTED in its entirety. The Commissioner's decision is REVERSED and REMANDED for further administrative proceedings. Judgment will be entered accordingly.

IT IS SO ORDERED this 20th day of September, 2010.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE